

FEB 13 2006

**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

COMMISSION  
SECRETARIAT

2006 FEB 14 A 11:13

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

MUR: 5669

COMPLAINT FILED: July 5, 2005

DATE OF NOTIFICATION: July 8, 2005

LAST RESPONSE RECEIVED: July 28, 2005

DATE ACTIVATED: December 20, 2005

EXPIRATION OF SOL: July 31, 2006

COMPLAINANT:

Citizens for Responsibility and Ethics in  
Washington

RESPONDENTS:

Frist 2000, Inc.;  
Senator William H. Frist;  
M. Lee Barfield, in his official capacity as a former  
Treasurer;  
Linus Catignani, in his official capacity as a former  
Assistant Treasurer; and  
Dawn Perkerson, in her official capacity as  
Treasurer.

RELEVANT STATUTES:

2 U.S.C. § 434(a)(2)  
2 U.S.C. § 434(b)(2)(G),(H)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

**I. INTRODUCTION**

This matter arises from a complaint alleging that Frist 2000, Inc., its current and former treasurers/assistant treasurers, and Senator William H. Frist violated 2 U.S.C. § 434(b)(2)(G) and (H) by failing to report a \$1.44 million loan taken out jointly by Frist 2000, Inc. and Senator

1 Frist's 1994 principal campaign committee, Bill Frist for Senate, Inc. on its 2000 Year-End  
2 Report.<sup>1</sup>

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Factual Background**

5 Bill Frist for Senate, Inc. ("BFS") was the 1994 principal campaign committee of William  
6 H. Frist. Frist 2000, Inc. ("Frist 2000") was the 2000 principal campaign committee of Sen.  
7 Frist. M. Lee Barfield was the treasurer of Frist 2000 and Linus Catignani was the assistant  
8 treasurer of Frist 2000 at the time of the events in question. Dawn Perkerson is the current  
9 treasurer of Frist 2000.

10 On November 24, 2000, BFS and Frist 2000 took out a loan for \$1.44 million from First  
11 Union bank to repay outstanding primary and general election debts, apparently including an  
12 approximately \$1.2 million loan received from Senator Frist by BFS. BFS repaid the Senator  
13 Frist personal loan on November 28, 2000 and properly reported this on its 2000 Year-End  
14 Report. Although the bank loan documents do not indicate that either committee's liability is  
15 subordinate to the other, Respondents characterize the role of Frist 2000 as that of a co-signor of  
16 the loan at the request of the bank. Response at 1. Respondents further claim that Frist 2000's  
17 liability for the loan was secondary to BFS until June of 2001 when Frist 2000 assumed all assets  
18 and liabilities of BFS at the time BFS was terminated as a federal political committee. *Id.*

19 Originally, the loan was reported by BFS in its 2000 Year-End Report as a \$1.44 million  
20

---

<sup>1</sup> Complainant also suggests the violation was knowing and willful. However, the only basis for Complainant's allegation is the failure of one committee, Frist 2000 to report the loan that was taken out jointly with and reported by another committee, Bill Frist for Senate.

26044142764

1 loan made by "Firststar" on November 28, 2000, although the dates on the Promissory Note and  
2 Security Agreements are November 24, 2000. For reasons that are unclear, Schedule A of that  
3 BFS disclosure report lists Frist 2000 as the filing committee when it should list BFS. Schedule  
4 C of the report lists Frist 2000 as an endorser or guarantor of the loan. Schedule C-1 lists both  
5 Frist 2000 and William H. Frist as other parties secondarily liable for the debt. The Promissory  
6 Note is co-signed by BFS and Frist 2000 (with William H. Frist signing as president of both  
7 committees). The bank had a Security Agreement with BFS that also names Frist 2000 as a  
8 "Borrower." It is unknown whether there was a similar agreement with Frist 2000.

9 BFS's next and final report (the 2001 Mid-Year/Termination Report) filed on July 30,  
10 2001 indicates in a handwritten memo on the Schedule C that the \$1.44 million loan was  
11 transferred to Frist 2000. BFS also reported five interest payments to Firststar in its 2001 Mid-  
12 Year Report. As of that date, Frist 2000 had not reported the loan or interest.

13 Frist 2000 did not report the loan at all on its 2000 Year-End Report. Frist 2000's  
14 original 2001 Mid-Year Report filed on July 31, 2001 discloses a \$1.44 million loan on  
15 Schedules C and C-1. The detailed summary pages do show a repayment of a "loan made or  
16 guaranteed by the candidate" in the amount of \$1.44 million, but there was no Schedule B  
17 (Disbursements) attached to support the repayment. Also, it does not appear as if any interest  
18 payments were reported.

19 Frist 2000 amended its 2001 Mid-Year Report on January 26, 2004. This amended report  
20 includes a Schedule B showing a payment on 6/26/01 to "First Star Corporation" in the amount  
21 of \$1.44 million for "Payment of debt/obligation." Frist 2000 amended its 2001 Mid-Year  
22 Report again on July 15, 2004. This amended report included a Schedule B showing a payment

26044142765

1 on 6/26/01 to "US Bank Corp" in the amount of \$1.46 million for "Payment of debt/obligation."  
2 ("Firstar and "USBancorp" merged in February 2001.) It is not clear why there was a change in  
3 the amount of the payment, but perhaps the \$1.46 million includes interest on the loan. Neither  
4 of the amended 2001 Mid-Year Reports included a Schedule C or C-1. Frist 2000's subsequent  
5 reports do not disclose any information about the \$1.44 million loan.

6 **B. Analysis**

7 The Act requires principal campaign committees to report "loans made by or guaranteed  
8 by the candidate" and "all other loans." 2 U.S.C. § 434(b)(2)(G) and (H). In this case, Frist 2000  
9 should have reported the \$1.44 million loan in its 2000 Year-End Report. This obligation exists  
10 regardless of whether Frist 2000 was jointly liable, a co-signor, or simply a guarantor. Further, if  
11 the candidate actually did guarantee the loans as indicated in the BFS reports and eventually in  
12 the Frist 2000 reports, Frist 2000 would have an obligation to report the loan as a loan  
13 "guaranteed by the candidate" since it was the current principal campaign committee of the  
14 federal candidate.

15 The Year-End Report on which the loan should have been reported was filed on January  
16 31, 2001. Although the initial filing date is now outside the applicable five year statute of  
17 limitations, the violation would be continuing in nature until the committee did properly report  
18 the loan and the interest on the loan. Thus, the statute of limitations does not expire until July  
19 31, 2006, five years after Frist 2000 first reported the loan on its 2001 Mid-Year Report.

20 The Act also requires principal campaign committees to report the "total amount of all  
21 disbursements" including disbursements by an authorized committee "for the repayment of loans  
22 made by or guaranteed by the candidate" and "all other loans" and the "name and address" of any

26044142766

1 "person who receives a loan repayment from the reporting committee during the reporting period,  
2 together with the date and amount of such loan repayment." 2 U.S.C. §§ 434(b)(4)(D) and (E);  
3 434(b)(5)(D). In this matter, Frist 2000, Inc. failed to properly report the repayment of the bank  
4 loan on its 2001 Mid-Year Report when it failed to include a Schedule B detailing the name and  
5 address of the person to whom the loan was repaid and the date and amount of the repayment.  
6 The committee ultimately amended its report to include this information, but not until  
7 approximately two and a half years after the original report.

8 Based on the foregoing, this Office recommends the Commission find reason to believe  
9 Frist 2000, Inc. and Dawn Perkerson, in her official capacity as Treasurer, violated 2 U.S.C.  
10 §§ 434(b)(2)(G) and (H) and 434(b)(5)(D).  
11

12 Pursuant to the Commission's Treasurer Policy, this Office  
13 recommends the Commission dismiss M. Lee Barfield and Linus Catignani as respondents in this  
14 matter as they are no longer the treasurer and assistant treasurer of Frist 2000, Inc. This Office  
15 also recommends the Commission dismiss Sen. William H. Frist as a respondent in this matter.

16 **III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY**  
17  
18  
19  
20  
21  
22

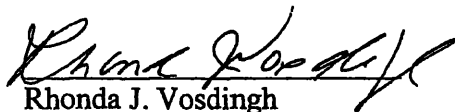
26044142767

IV. RECOMMENDATIONS

- 1) Find reason to believe Frist 2000, Inc. and Dawn Perkerson, in her official capacity as Treasurer, violated 2 U.S.C. § 434(b)(2)(G) and (H) and 434(b)(5)(D);
- 2) Dismiss the matter as to Sen. William H. Frist, M. Lee Barfield and Linus Catignani;
- 3)
- 4) Approve the attached factual and legal analysis;
- 5)
- 6) Approve the appropriate letters.

Date

Lawrence H. Norton  
General Counsel



Rhonda J. Vosdinger  
Associate General Counsel  
for Enforcement



Mark Shonkwiler  
Assistant General Counsel



Audra L. Wassom  
Attorney

Attachments:

1. Factual and Legal Analysis

26044142789